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BEFORE THE
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WASHINGTON, D.C.

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In the Matter of)
COMPUTER RESERVATIONS SYSTEMS)
REGULATIONS)
NOTICE 97-9)

Docket No. OST-97-2881 - 14

COMMENTS OF
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¹ This association was formerly named the Orient Airlines Association (OAA).

C. Comments on DOT Issues

The AAPA response to each of the specific issues raised by DOT in its Advance Notice of Proposed Rulemaking is as follows:

Issue 1 : Should the rules be continued? If so, for how long? Should another review be required and, if so, when?
Commenters who recommend that the rules should not be continued should address the consequences of that recommendation on airlines, competition among the systems, travel agencies, and the public.

The CRS rules should be continued. The rules are required for as long as there are airlines with CRS ownership interests. There should be a review period after a minimum of three years. However, considering that the industry is undergoing changes in distribution channels and technology, the rules established now may be outdated in a much shorter period.

Issue 2 : Have the rules been effective? Are the rules adequate and appropriate in light of technological changes, changes in business conditions in the airline and travel industries, and the rise of Internet and on-line computer services that enable consumers to make bookings?

The rules have generally been effective, except in the areas of CRS fee increases, pricing structure and productivity schemes, as discussed under Issue 3 and Issue 11.

The current rules, however, do not cover Internet and on-line computer services. We therefore believe that the rules should be modified to cover these areas, that is, CRSs should be

required: to notify their participating airlines when they distribute airlines products via the Internet; to display complete information on the airlines' services (e.g. code-share, smoking/non-smoking flight, etc.); and, to provide sufficient point-of-sale information for Internet bookings, among others.

To the extent that certain parties may want to propose that airlines reservations systems offered through the Internet be subject to the CRS regulations, we believe that airlines reservations systems do not constitute a "system" as defined in the U.S. CRS rules, and hence, should not be covered by them. If restrictions are imposed on the way an airline presents its product, then such actions virtually prevent the airline from competing in the marketplace. The airline will use its own system to supply information and this should be without regulation on bias, etc.

Additionally, to rule on the manner by which an airline displays its product on the Internet would be unnecessarily interfering with an airline's commercial operations. If a customer requests information from an airline or has the intent to make bookings, then the airline is expected to be able to satisfy all the demands of that customer related to the journey or any other travel plans. The customer, having made a conscious selection, obviously expects the airline to be able to deal with other airlines and other products, regardless of whether the additional carrier(s) concerned is part of a codeshare/alliance partnership. The customer has chosen the airline as its preferred source of information, either by walking into the office, calling the airline directly or accessing the airline via an Internet connection. In this respect, the airline should expect to be able to display its product in the most advantageous way for the airline and in the most satisfactory way to the

passenger, in order to effect a sale. The passenger makes a conscious choice and the airline makes a business decision on how to best service the customer. This may or may not include the product(s) of other airlines.

Issue 3 : In those areas where commenters believe that the rules have not been effective, should provisions be deleted or modified and, if modified, how? Commenters should address how the rules have been effective or ineffective in detail.

The current rules have been ineffective to the following extent:

1. CRSs are free to increase their fees almost every year, without the need to provide any justification for the increase. This is unfair to participating carriers who have no way to object but to continue participating in the CRS. Other than not participating, airlines are not at liberty to participate in an "overpricing" system at a lower level of functionality because the parity rules mean an airline system owner must participate at the same level in all systems.

2. Pricing structure - under the transaction based pricing scheme, participating airlines pay for transactions which do not create any incremental benefits to the airlines, e.g. passive bookings not for ticketing, speculative and/or duplicate bookings which result in high no-shows, schedule changes, etc. This makes it very difficult for airlines to control or manage CRS fees. We recommend that only ticketed segments should be charged.

3. Productivity pricing - some agencies admit that they create excessive non-productive bookings just to achieve the

productivity level set by CRSs. This is creating unnecessary booking fees. Therefore, only bookings that result in ticket issuance should be considered in productivity pricing schemes.

Issue 4 : Do the changes in ownership of the systems (all now have multiple owners and at least one is owned in part by the public) require changes in our approach to regulation or in individual rules? Should we re-examine our jurisdictional and analytical bases for regulating CRSs, which rely on the ownership of each system by one or more airlines and airline affiliates? Do the decisions by some airline owners to reduce their CRS ownership interests indicate that there is less need for CRS regulation?

The reduction of airline CRS ownership interests does not imply any less need for CRS regulation. The purpose of the rules is to ensure that consumers and travel agents receive complete and accurate information, and, to promote fair competition for CRSs and airline businesses. Hence, the rules should be broad enough to fulfill its purpose without taking the CRS ownership into consideration.

Issue 5 : Have the rules allowing travel agencies to use third-party hardware and software and to use terminals not owned by a system to access other travel databases had any impact? Should the rules be changed to make it easier for the travel agencies to use third party hardware and software and to access other databases? For example, should the exception allowing vendors to restrict the use of vendor-owned equipment be eliminated? Do one or more dominant airlines affiliated with a

CRS use their market power in any regional airline market to deter or block agencies from exercising their rights under these rules? Do systems otherwise impose contract terms that unreasonably deter agencies from acquiring their own equipment or otherwise using multiple databases or systems?

Yes, the rules should be changed to make it easier for the travel agencies to use third party hardware and software and to access other databases. Rentals of hardware and CRS software should be unbundled, making it easier for an agency to make separate decisions.

Issue 6 : Does the mandatory participation rule strengthen or weaken competition in the airline and CRS businesses? Should the rule be modified to create areas where airlines with CRS ownership interests would have some ability to choose which services to buy from other systems? Should the rule instead be extended to cover airlines that market a system? Should the rule be extended to include matters like access to corporate fares?

Airline products distributed through CRSs are products available to the general public. The CRS rules should not compel the display of non-public products.

Issue 7 : In the parity clause rulemaking, Delta Airlines has contended that we should bar systems from requiring participation in the booking services offered through Internet sites as a condition to participation in the services offered travel agency subscribers. What impact would Delta's proposal have on airline and CRS competition? Does the use of CRSs as booking engines by

many Internet websites raise other issues that should be addressed in the rules?

When an airline chooses to participate in a CRS, they are making a conscious decision to pay fees for bookings made by travel agencies connected to that CRS. There is supporting data available to the airline on the origin of the booking, i.e. the system, agent, city, country, etc.

When airlines are forced to participate in Internet sites, they lose control over their product. Their inventory immediately becomes available on a worldwide basis even to non-travel agencies, and CRSs are not providing sufficient data to identify where bookings come from. This prevents the airline from determining its true cost of sale.

Therefore, it should be up to each airline to determine whether it wants to participate or not in booking services through Internet sites.

Issue 8 : Do the systems' display algorithms injure airline competition and, if so, how? If so, how could we prevent those injuries without engaging in a detailed regulation of the systems' criteria for editing and ranking their displays?

Systems vary the default time and it could be that the default selected is the one that best suits partner airlines. The most equitable system could be that there is no default time in CRS systems and that the agent should add the time as a mandatory part of their entry.

Issue 9 : Does our rule requiring each system to make available to participating airlines all of the marketing and booking data generated by the system from bookings benefit airline competition? Are system owners or other airlines using the data in ways that may prejudice airline competition? If so, how should the rule be changed?

The provision of booking data (BIDT data) is necessary, and CRSs comply by supplying the minimum data required. However, in the case of Internet bookings these are not clearly identified, point-of-sale information is lacking, and ticket data is not provided.

Airlines have an issue with the data provided them by CRSs for bookings transacted on the Internet using CRSs. At a time when airlines are concerned about yield management and have systems in place to control and manipulate this, requests for availability and bookings are being passed to the airlines with little or no information on the true origin of the request. CRSs either do not have systems in place to secure the correct information or are not passing that information through to the airline, either at the time of request for availability or at the time of booking. It is important to airlines that the point-of-sale is correctly identified in order to assess the value of the request, as well as to decide whether to accept or decline the transaction, according to the yield parameters set by the airline.

Additionally, airlines have post-booking systems in place to track sales and provide essential marketing information to their sales force. This information is extremely important and the integrity of current systems is being eroded through incorrect and/or incomplete information provided by CRSs. Although the

number of Internet bookings is not large at this point in time, it is a growing source of bookings and it is extremely important to the airline that correct and complete point-of-sale information is supplied, both at the time of request and at the time of booking.

The cost of booking information data tapes (BIDTs) is questionable when one considers that the data contained therein supports the CRS billing. BIDTs should be supplied without cost. This is probably the only industry where the customer has to pay for the data needed to validate an invoice received from the supplier. As CRS bills amount to considerable sums of money, charging for supporting information is an unacceptable practice.

On marketing data tapes (MIDT), the ruling that this should be made available to all airlines was an excellent one. However, the cost imposed by the CRSs is extortionate and the carriers who are able to use the data are mostly owner airlines. Smaller airlines are disadvantaged in terms of the cost.

It is not known how the cost of MIDTs is justified by the CRSs since, once production of the information is executed for one airline, it should be minimal to re-produce the same information for other airlines. The high cost does prejudice airline competition. To resolve this, MIDTs should be provided at very low costs, similar to BIDT. Also, airlines should be able to stipulate which markets they are interested in.

Issue 10 : We adopted a rule that generally requires each system to make available to participating airlines the same functionality used by its owner airlines. Has this rule been

effective? Are there any remaining significant differences in functionalities that affect airline competition?

The rule has been effective.

Issue 11 : Should we address the issues of booking fee levels and the structure of booking fees? If so, is there a practicable method for regulating the level of booking fees? Is there a way to bring market forces to bear on the terms on which airlines participate in CRSs?

Yes, the DOT should address the issues of booking fee levels and the structure of booking fees. Airlines have no recourse when a fee increase is imposed. More study needs to be done by the DOT on the pricing structure and price increases in the past to determine if there was sufficient justification. Such a study should probe the question of whether the current pricing structure is pro-competition or if it leads to higher cost to consumers.

Issue 12 : Do the systems inappropriately charge airlines for agency transactions that are unnecessary or valueless for airline participants? Do the systems use subscriber contract terms, such as productivity pricing, that may encourage unnecessary transactions by some agencies and lead to increased booking fee costs for airline participants? If such problems exist, should we adopt rules in this area? Parties commenting on this issue should explain why airlines can or cannot stop illegitimate or unnecessary travel agency transactions by taking

action against travel agencies that choose to conduct such transactions.

Yes, systems inappropriately charge airlines for agency transactions that are unnecessary or valueless for airline participants. Specifically, airlines should not be expected to pay passenger segment fees for those segments that are used by travel agencies purely for invoice or itinerary printing. The travel agency using the system for this purpose is taking advantage of the system functionality to reduce their own costs. It is inappropriate for this to be funded by the airline, which has most likely managed the booking itself in the first place, and in many cases, also issued the ticket.

Often passive segments are created by a wholesaler or consolidator who may have issued a ticket on behalf of another agent and, as a result, the airline is paying twice. This cost of passive segments should be borne by the agency concerned. The airline is paying a passenger segment fee, the agency saves resource costs and also is likely to receive a productivity bonus against the passenger segment, all paid for by the participating airline.

CRSs should charge the travel agency for these bookings by providing a booking code that is non-billable to airlines. The CRS can bill the travel agency who is gaining the advantage from the use.

Agents with access to more than one CRS should complete the whole transaction in the same system i.e. if a booking is made in one CRS then the ticketing transaction should also take place in that CRS. It has been common practice for travel agents to book in one CRS and then create a passive booking for ticketing

purposes in another. It is unfair for airlines to pay duplicate segment fees caused by travel agents using multiple CRSs.

The airlines can take steps to validate the segments, but at additional cost to the airlines. On the other hand, travel agencies can create bookings which are invalid, fictitious or passive at no cost to them. If the airlines subscribe to the "Passive Notification" products which CRSs offer, a huge volume of airlines systems processing would be required, which in turn requires resources and attracts further costs. The alternative is to monitor passive bookings using data from the BIDT purchased from CRSs. But this information is received after the bookings have been created and billed to the airline. Experience has proved that addressing unnecessary passive bookings with travel agencies has limited effectiveness. It requires constant monitoring by the airlines and continual follow-up, activities for which airlines generally do not have resources. In trying to determine the cause of these bookings, airlines have found that productivity pricing is a major contributor.

Incentive driven bookings, therefore, are not good for the airlines and should not be based on bookings only, whether passive or not, unless CRS systems adopt a proposal that airlines are only charged for ticketed bookings. Otherwise, CRS marketing tools should exclude productivity pricing which may encourage unnecessary transaction and increased booking fee.

An example is the HX/NO status where CRSs claim to have given the airlines the option to request to cancel a segment, for which a booking fee credit to the airline can be accordingly effected. However, experience indicates that even if an airline has sent a cancellation request message, credit is not automatically granted, pending action by a travel agent to move

the segment to History. Regardless of travel agency action, an airline's decision to cancel a segment, with an appropriate advice to the CRS, should take precedence since it is the airline's inventory and it is the one that pays for booking fees.

Issue 13 : In the past, we have reasoned that promoting the systems' competition for subscribers should usually promote airline competition, although increased competition for subscribers may lead to increased CRS costs for participating airlines. Does such competition among systems benefit airline participants? Do systems use subscriber contract terms that adversely affect competition in the CRS or airline industries? If so, how could the rules be changed to eliminate such adverse effects?

Increased competition for subscribers does not necessarily benefit airline participants. In fact, with the example of subscriber productivity incentives, the airlines have been detrimentally affected with increased CRS fees and a compromised quality of bookings in the airlines' inventory.

If incentive schemes should no longer be allowed, CRSs will have to compete with one another via other means such as better functionalities, cheaper equipment rental charges (through a high level of efficiency), better service (such as a more responsive help desk, better training of agency staff, immediate replacement of malfunctioning sets), a high degree of reliability (zero down time), volume installation incentive (more sets at a cheaper rate), multi-location discount, etc. Contrary to the incentive pricing schemes, not only will these competition modes not be at the expense of the participating airlines, more importantly, they

will also lead to enhanced service levels to agencies and will ultimately translate to better value to the traveling public.

Issue 14 : Some industry participants have asserted that some of the major airlines with CRS ownership interests coerce travel agencies at their hubs into using their systems and thereby unreasonably limit competition in both the CRS and airline industries. Are these assertions true? If they are, are there any practicable rules that could be adopted that would limit or eliminate such practices?

It is unclear if these are true or not.

Issue 15 : The overseas marketing efforts of some CRSs have been frustrated by discriminatory conduct of foreign airlines and other travel suppliers that own or market a competing CRS in their home countries. Section 255.11 (b) of our rules already exempts a CRS from complying with certain rule requirements in response to some types of discriminatory conduct by a foreign CRS. Should our rules be revised to strengthen a U.S. system's ability to take countermeasure against such discrimination?

The exemptions have been used by CRSs. It has not been demonstrated that there is a need to strengthen them.

D. Other Concerns

The following are other concerns raised by AAPA members:

1. In current CRS rules, subscribers do not have a code of conduct in using CRSs, leading in some cases to abuse of CRSs and higher booking charges to airlines, not to mention inventory wastage.

2. On Electronic Ticketing, there is a need for a standardized presentation of an electronic ticket confirmation (i.e. agreed structure of customer confirmation) among the CRSs to obviate airlines system changes depending on each CRS's format. Data requirements adopted by IATA can serve as a common platform.

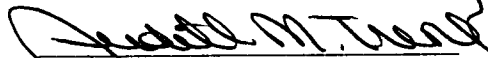
3. On Internet point-of-sale, for CRSs offering bookings over Internet, the airlines need additional details to identify a point-of-sale. These include:

- if registration process is available (i.e. with Travelocity), the airlines need the pseudo-city code to reflect at least the country code;
- based on the current lack of point-of-sale information, we ask that all CRSs offering booking facilities through the Internet be required to implement a registration process.

4. With the increased accessibility of CRSs through the Internet, it is important to note that the Internet user cannot be considered a CRS subscriber since the individual is not a trained travel agent. As such, he does not understand the cost implications when transactions are made on the CRS. It is therefore necessary for CRSs to address the appropriate level of charges, and, for airlines to be able to refuse to participate in Internet sites or to at least have the right to restrict access to their own products.

The AAPA appreciates the opportunity to provide these comments with respect to CRS rulemaking.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Judith M. Trent", is written over a horizontal line.

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CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of December 1997, I served a copy of the foregoing comments of the Association of Asia Pacific Airlines on the following individuals by first class mail, postage-prepaid.

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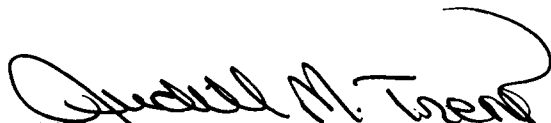
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